Remarks

Each of the Examiner's objections and rejections will be discussed in the order of presentation in the Official Action of February 17, 2006.

Objection to Drawings:

Applicant's attorney disagrees with the Examiner's objection to the drawings on the basis that the "flexible bag" and "bag" are not shown.

Examiner is referred to Figures 1 and 2 whereat is shown flexible bag/bag designated as 17. See the specification of the subject application at pp. 7-8 where the flexible bag is described in detail.

In view of the above, the withdrawal of the objection to the drawings is requested.

Objection to Claims:

The suggested changes to claims 1 and 2 made by the Examiner have been adopted.

Rejection of Claims under 35 U.S.C. 112:

Throughout each of the pending claims, the use of the term "bag" is now preceded and modified by the term "flexible". It is submitted that such amendment justifies the withdrawal of the subject rejection under 35 U.S.C 112.

Rejection of Claims 1, 2 and 23, 15 and 16
Under 35 U.S.C. 102(b) As Anticipated by Prussin:

Claims 1 and 2 are the only independent claims. Claims 1 and 2 have been amended to provide structure that precludes discharge of propellant from the outer container during discharge of product from the inner flexible container. This structure represents a fundamental difference between the aerosol system of the subject invention and that of Prussin. The Prussin system is a co-dispenser, i.e., the system simultaneously discharges two products, one from container 120 (product plus propellant) and one product from the flexible bag 154. In the subject system, there is no discharge of propellant from the outer container during discharge of product from the flexible bag. Such a system provides distinct advantages, namely, that the product and propellant, where incompatible, do not admix before discharge of the desired product and, secondly, there is no diminution of pressure through loss of propellant, thus tending to provide a relatively constant pressure on the flexible bag throughout the discharge of product from the flexible bag.

For the above reasons, including the subject amendment of claims 1 and 2, it is appropriate to withdraw Prussin as an anticipating prior art reference. Such action is hereby requested.

Distinguishing the independent claims 1 and 2 from Prussin warrants its withdrawal as an anticipatory prior art reference against claims 13, 15 and 16.

Rejection of Claims 2 and 15 Under 35 U.S.C. 102(e)
Based On O'Connor

Applicant reserves his right to establish an earlier inventorship of the claimed invention so as to obviate O'Connor as a proper rejection under 35 U.S.C. 102(e). However, applicant's attorney submits that the claims of the subject invention are patentably distinguishable over the O'Connor reference as discussed hereafter.

Claims 2 and 15 differ from O'Connor in the following respects:

Regarding the rejection of claims 2 and 13-15 based on O'Connor et al., the claimed apparatus of claims 2 and 13-15 differs from O'Connor et al. in the following respects:

In O'Connor et al., the dispensing system employs dual containers, each storing a separate product, which separate products are not to be admixed until dispensed through the discharge nozzle. Both separated products are discharged simultaneously by propellant pressure against a piston-like member (15 in Fig. 1) which forces both separate products toward the discharge orifice when the valves on the two containers storing the separate products are opened.

In the subject invention, there are not separate products but only one product in the inner container (bag). Further, there is not a discharge of both separated products as in O'Connor, et al. but only discharge from the inner container (bag).

Moreover, the aerosol valve system of claim 2 includes an outer container that surrounds the inner flexible container, which

outer container stores propellant, said propellant acting to pressurize the flexible bag and drive the product contents of the flexible bag to the discharge orifice. O'Connor does not have a surrounding outer container containing propellant. Rather, O'Connor has an outer container which stores a further product. The propellant which drives the separate products in each of the containers to the discharge orifice is stored in a separate compartment at the base of the unit - see compartment 4 in Figure 1 - which acts to apply pressure on a piston 15 (Fig. 1), which piston sealingly and slidably registers against the inner surface of outside container 11 (Fig. 1).

Furthermore, contrary to the Examiner's statement at p. 8, lines 9-13 of the subject Official Action that "The respective surfaces are in annular sealing contact (Fig. 11) with each other when the stem is deeply depressed <u>for propellant pressure filling</u> . . .", the respective surfaces are not sealed for propellant filling but rather to admit the product to be stored <u>in outer container 111</u>, where the pressure involved in filling the product and the consequent pressure between the sealing surfaces may be significantly less than during propellant filling (underlining added).

Finally, claim 2 of the subject invention precludes discharge from the outer propellant container, whereas it is critical to the successful operation of the O'Connor unit that product be discharged from the outer container, namely that the product stored

in the outer container be simultaneously discharged with the product in the flexible inner container.

For the reasons advanced above, rejection of claim 2 based on O'Connor may be properly withdrawn, and such action is requested.

Since claim 15 depends on independent claim 2, it likewise may be properly withdrawn and such action is requested.

In sum, it is submitted that each of the pending claims in the subject application are in condition for allowance, and such action is hereby requested.

Respectfully submitted,

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